

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

DERRICK DEMOND GRAY.

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CRIMINAL NO. 6:10CR129

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On December 5, 2013, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Derrick Demond Gray. The government was represented by Richard Moore, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Wayne Dickey.

Pursuant to a written Plea Agreement, Defendant pled guilty to the offense of Felon in Possession of Ammunition, a Class C Felony. This offense carried a statutory maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 19 and a criminal history category of V, was 57 to 71 months. On September 20, 2011, Chief District Judge Leonard Davis sentenced Defendant to 30 months of imprisonment followed by 3 years of supervised release subject to the standard conditions of release, plus special conditions to include access to financial information, substance abuse testing and treatment, and mental health treatment. Defendant completed the term of imprisonment and began his period of supervised release on February 13, 2013.

Under the terms of supervised release, Defendant was prohibited from committing another crime, associating with a convicted felon without permission from the U.S. Probation Office, and was required to report as directed to the U.S. Probation Office, obtain employment, notify the U.S. Probation Office about contact with law enforcement within 72 hours, provide

urine specimens, return his financial packet as directed, and make payments towards his \$100 assessment. In its petition, the government alleges that Defendant violated his term of supervised release by failing to report as directed to the U.S. Probation Office, failing to obtain employment, associating with a convicted felon without permission from the U.S. Probation Office, failing to notify the U.S. Probation Office about contact with law enforcement within 72 hours, failing to provide a urine specimen on over 15 occasions, failing to return his financial packet as directed, and had not made any payments towards his \$100 assessment.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by failing to report as directed to the U.S. Probation Office, not obtaining employment, associating with a convicted felon without permission from the U.S. Probation Office, failing to notify the U.S. Probation Office about contact with law enforcement within 72 hours, failing to provide a urine specimen on over 15 occasions, failing to return his financial packet as directed, and not making any payments towards his \$100 special assessment, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may revoke probation or supervised release; or extend the term of probation or supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(1). Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade B violation is 7 to 13 months. U.S.S.G. § 7B1.4(a).

At the hearing, Defendant pled true to the allegations set forth above. The government recommended time served with no supervised release.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Derrick Demond Gray be committed to the custody of the Bureau of Prisons for time served with no supervised release to follow.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to Chief District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 6th day of December, 2013.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE